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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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2-1, MARUNOUCHI 1-CHOME, CHIYODA-KU, TOKYO 100
GLOUCESTER TOWER, 11 PEDDER STREET, HONG KONG

November 4, 1994

BY HAND

Mr. William F. Caton,
Acting Secretary,
Federal Communications Commission,
1919 M Street, N.W., Room 222,
Washington, D.C. 20554.

Re: PP Docket No. 93-253
Ex Parte Filing

DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On November 3, 1994, the undersigned submitted, on behalf of Roland A. Hernandez, an ex parte letter to Dr. Robert M. Pepper in the above-referenced proceeding. Unfortunately, a few words were inadvertently omitted from page 2 of that letter. Please accept the attached revised copy. For your convenience, we have included a copy of the original letter filed on November 3.

Respectfully submitted,


Patricia Diaz Dennis
Ari Q. Fitzgerald

Attorneys for
Roland A. Hernandez

(Attachment)

cc: Dr. Robert M. Pepper
Donald H. Gips
Sara Seidman, Attorney-at-Law
Catherine D. Sandoval, Attorney-at-Law

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November 3, 1994

BY HAND

Dr. Robert M. Pepper,
Chief,
Office of Plans and Policies,
Federal Communications Commission,
1919 M Street, N.W., Room 822,
Washington, D.C. 20554.

Re: PP Docket No. 93-253
Ex Parte Filing

Dear Dr. Pepper:

On behalf of Roland A. Hernandez, and pursuant to Section 1.1206(a)(1) of the Commission's rules, this letter discusses proposals currently circulating at the Commission to improve designated entities' ability to attract investment capital and maintain long-term ownership of a PCS license.

1. Annual Reductions in Bidding Credit Repayment Penalties

In an earlier ex parte presentation, Mr. Hernandez stated that the current penalties imposed for transferring a license purchased with bidding credits disadvantages designated entities in attracting investment capital.* The

* See Ex Parte Presentation of Roland A. Hernandez in PP Docket No. 93-253 (October 11, 1994) ("October 11, Ex Parte Presentation") at 4.

auction rules now allow an entrepreneur's block licensee to transfer its license after five years to any entity without incurring a penalty other than payment of the unpaid balance. By contrast, if a minority-owned small business transfers its license after five but before 10 years, it must pay back its bidding credit. This disparity handicaps designated entities because potential strategic investors will be able to assume control of the business at an earlier stage in their investment if they invest in non-minority businesses. The likely result of the disparity will be that the investors will ally themselves with companies with which they have established, long-term relationships, instead of designated entities.

To correct this imbalance, Mr. Hernandez proposes that the Commission extend the mandatory holding period for all entrepreneurial block licenses to seven years if the "unjust enrichment" penalties for recouping the bidding credits are reduced coterminously.*

While the foregoing approach better corrects the imbalance the rules create, Mr. Hernandez also supports an approach that reduces the bidding credit repayment penalties on a percentage basis annually beginning in the sixth year.

2. Annual Forgiveness of Installment Plan Principal

In his October 11, 1994 ex parte presentation, Mr. Hernandez stated that the Commission's bidding credit for minority and women-owned small businesses should be increased from 25 to 40 percent. While a larger upfront bidding credit would better assist designated entities in securing PCS licenses, Mr. Hernandez also generally supports efforts to partially forgive installment plan principal annually after year five. While a "front-end" discount would more effectively enhance the ability of designated entities to secure PCS licenses, a "back-end" approach also eases the burden of debt principal repayment at a time when

* Mr. Hernandez proposed the following schedule: for a transfer of license in the first five years of the license term the forfeiture would be 100 percent of the value of the bidding credit; in year six, the forfeiture would be 50 percent; in year seven, the forfeiture would be 25 percent, after which no further penalty would be assessed. Ex Parte Presentation at 4.

Dr. Robert M. Pepper

-3-

designated entities will be facing build-out and other significant business expenses.

Two copies of this letter are being submitted to the Secretary to be included in the above-referenced file. Should any questions arise in connection with this letter, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Patricia Diaz Dennis". The signature is written in black ink and is positioned above the printed name.

Patricia Diaz Dennis
Ari Q. Fitzgerald

Attorneys for
Roland A. Hernandez

cc: William F. Caton
Acting Secretary
Federal Communications Commission

Sara Seidman, Attorney-at-Law
Donald H. Gips
Catherine Sandoval, Attorney-at-Law